SINGLE BENCH

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, C.G.

WRIT PETITION NO. 4607 /2005

(Petition under Article 226/227 of the Constitution of India)

PETITIONER : Raj Kumar Sharma, aged about 47 yrs S/o Shri Bhaiyalal Sharma, at present working as Forest Guard, Marwahi Forest Division, Bilaspur, C.G.

P.R. No. 4829/05
Presented by Shri Vishnu Kashyap
dated 16/9/05

VERSUS

RESPONDENTS :

1) State of Chhattisgarh, through the Secretary, Forest Department , D.K.S. Bhawan, Raipur (C.G.)

2) The Chief Conservator of Forest, (Administration) State of Chhattisgarh, Raipur, Distt. Raipur (C.G.)

3) Conservator of Forest, Forest Department, Bilaspur Circle, Bilaspur, C.G.

4) Divisional Forest Officer, Forest Division, Marwahi, C.G.

5) Divisional Forest Officer, Bilaspur, Forest Division Bilaspur, C.G.

RECEIVED-COPY
16.9.05
CLERK to A. G. BILASPUR

शपथ आयुक्त
एस. के. ठाकुर
बिलासपुर (छ.ग.)
बिलासपुर तहसील कोर्ट

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT OF MANDAMUS/ CERTIORARI, ORDER/ORDERS, DIRECTION/DIRECTIONS ETC.

(47)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 4607 of 2005

Petitioner : Raj Kumar Sharma

Versus

Respondents : State of Chhattisgarh and others

SB : Hon'ble Shri Satish K. Agnihotri, J.

Present: Mr. Vishnu Koshta, counsel for the petitioner.
Mr. Ajay Dwivedi, Panel lawyer for the respondents/State.

ORDER

(Passed on this 27th day of February, 2007)

1. By this petition, the petitioner has challenged the impugned order dated 31.08.05 (P/1), whereunder the petitioner, while working as Forest Guard in Gourela Range Gummatola Area, Marwahi, Forest Circle, Pendra Road, was transferred to Lormi Range, Forest Circle, Bilaspur.

2. Learned counsel appearing for the petitioner submits that the petitioner is Class-III employee. Under the policy of the State Government, if spouse of an employee is also working in government department, then the transfer order should be made in such a way asto accommodate both employees at one place as far as possible.

3. This Court vide interim order dated 26.9.2005 has stayed the effect and operation of the impugned order dated 31.08.05 (P/1) till the next date of hearing. The petitioner, by virtue of the stay granted by this Court, has remained at the original place of posting.

(48)

4. Learned counsel appearing for the petitioner further submits that liberty be granted to the petitioner to make an application before the competent authority in case transfer order is passed in public interest.

5. It is well settled principle of law that transfer is an incidence of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere with the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.

6. In view of the foregoing, this writ petition is disposed of with a direction to the respondents/State to consider the application of the petitioner, in accordance with law. In the meantime, the petitioner may not be disturbed during academic session till 30th April, 2007. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

B/-